

HKR

HOSMER KING & ROYCE, LLC

313 S. Glenstone

Post Office Box 1245

Springfield, Missouri 65801-1245

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Facsimile: (417) 869-2099

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Facsimile: (417) 468-4300

FILED
W. CRAIG HOSMER
STUART H. KING
JAMES R. ROYCE
ANDY HOSMER
JAMES M. OWEN
2012 MAY 21 PM 2:39
CIRCUIT CLERK
GREENE COUNTY, MO
LICENSED IN MISSOURI AND DISTRICT OF COLUMBIA

May 1, 2012

Greene County Circuit Clerk
1010 Boonville Avenue
Springfield, MO 65802

Re: Missourians for Responsible Lending v. Stand Up Missouri, et. al.


Dear Clerk:

Enclosed please find a Petition, Filing Information Sheet, my firm check in the amount of \$100.00 for the filing fee as well as service fee checks to the Jackson County Sheriff, St. Louis County Sheriff and Polk County Sheriff in the above matter for filing and processing.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact my office.

Very truly,

HOSMER KING & ROYCE, L.L.C.

By: 
Stuart H. King

SHK:jlh
Enclosures

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

FILED

2012 MAY -1 P 2: 39

CIRCUIT CLERK
GREENE COUNTY, MO

MISSOURIANS FOR RESPONSIBLE
LENDING, a Missouri Political Action
Committee,

Plaintiff,

v.

Case Number 1231-CV06158

STAND UP MISSOURI,
a Missouri Political Action Committee,

Serve at: **Treasurer**
 Robert Dalton
 777 Craig Road, Suite 210
 St. Louis, Missouri,

and

MISSOURIANS FOR EQUAL CREDIT
OPPORTUNITY, a Missouri Political
Action Committee,

Serve at: **Treasurer**
 James C. Thomas, III
 Suite 200
 4131 N. Mulberry Drive
 Kansas City, Missouri,

and

PROACTIVISM, LLC,

Serve at: **c/o Oscar Houser**
 497 East 380th
 Dunnegan, Missouri,

and

PROACTIVE SIGNATURE SOLUTIONS,

Serve at: **c/o Oscar Houser**
 497 East 380th
 Dunnegan, Missouri,

and

OSCAR HOUSER,

Serve at: **497 East 380th**
 Dunnegan, Missouri,

Defendants.

REC. # 31GR367734
AMT. 100.⁰⁰

PETITION

COMES NOW plaintiff Missourians for Responsible Lending, a Missouri political action committee, by and through its attorneys of record, HOSMER KING & ROYCE, LLC, and for its cause of action against defendants Proactivism, LLC; ProActive Signature Solutions; Stand Up Missouri; Missourians for Equal Credit Opportunity; and Oscar Houser, states to the Court as follows:

GENERAL ALLEGATIONS

1. Plaintiff is a Missouri Political Action Committee, doing business in Greene County, Missouri.

2. Upon information and belief, defendant Proactivism, LLC is a foreign limited liability company, doing business in Greene County, Missouri or, in the alternative, a fictitious name used by defendant Houser.

3. Upon information and belief, defendant ProActive Signature Solutions is a foreign company, doing business in Greene County, Missouri or, in the alternative, a fictitious name used by defendant Houser.

4. Defendant Oscar Houser is an individual currently residing in Polk County, Missouri and doing business in Greene County, Missouri.

5. Defendant Stand Up Missouri is a Missouri political action committee doing business in Greene County, Missouri.

6. Defendant Missourians for Equal Credit Opportunity is a Missouri political action committee doing business in Greene County, Missouri.

7. Jurisdiction and venue are properly before this Court in that the actions which are the basis of this cause of action took place in Greene County, Missouri and the plaintiff's cause of action accrued in Greene County, Missouri.

8. Plaintiff is the principal of an initiative petition for signatures to place on the November, 2012 ballot a measure to govern the business of the payday loan industry.

9. Plaintiff has contracted with Midwest Advocacy Group to gather signatures in the State of Missouri, including Greene County, Missouri, on the initiative petition.

10. Plaintiff has until May 6, 2012 to collect and submit to the Missouri Secretary of State a prescribed number of signatures for approvals.

11. Defendants have unlawfully obstructed Plaintiff's efforts to gather signatures for its initiative petition.

12. During the month of April, 2012, and continuing to the time of filing of this Petition, Defendants, by and through their employees and/or agents, have taken the following actions to hinder the plaintiff's effort to gather signatures:

- a. Threatened individuals seeking to gather signatures;
- b. Threatened the children of individuals seeking to gather signatures;
- c. Physically struck individuals seeking to gather signatures and/or struck petitions out of their hands;
- d. Shouted religious slurs or insults at individuals seeking to gather signatures;
- e. "Blocked" individuals seeking to gather signatures or, otherwise stated, physically standing and/or moving between individuals so as to impede the ability to those seeking to gather signatures to approach potential signors and/or so as to impede the ability of persons to approach those seeking to gather signatures;

- f. Approached, followed and surrounded individuals seeking to gather signatures in groups to as to intimidate and stalk;
- g. Upon information and belief, taken possession of sheets of signatures and threw them in the trash;
- h. Upon information and believe, broke into the car of a-person seeking to gather signatures and converted sheets of signatures; and
- i. Otherwise unreasonably interfered with the efforts of those seeking to gather signatures.

13. Plaintiff and those seeking signatures on its behalf have attempted to avoid conflict with the defendants.

COUNT I
(Assault)

COMES NOW Plaintiff and for Count I of its cause of action against Defendants, states to the Court as follows:

14. Plaintiff restates and incorporates herein by reference Paragraphs 1 through 13 of this Petition as if fully set forth herein.

15. The above acts of Defendants, by and through their agents and employees, were taken toward those seeking to gather signatures with the intent of causing the apprehension of offensive contact and/or bodily harm.

16. As a direct result of the defendants' actions, Plaintiff, and those seeking to gather signatures on its behalf have suffered damages including fear and apprehension.

17. Defendants' acts have been willful and intentional and/or in reckless disregard of the rights of Plaintiff and entitle Plaintiff to punitive damages in an amount sufficient to deter Defendants and others from like conduct in the future.

WHEREFORE, Plaintiff asks the Court for its judgment for actual damages in a fair and reasonable amount, for punitive damages in an amount sufficient to deter Defendants and others from like conduct in the future, for its costs and expenses incurred herein, and for such other relief as the Court deems just.

COUNT II
(Action for Preliminary and Permanent Injunction)

COMES NOW Plaintiff and for Count II of its cause of action against Defendants, states to the Court as follows:

18. Plaintiff restates and incorporates herein by reference Paragraphs 1 through 14 of this Petition as if fully set forth herein.

19. If Defendants are permitted to continue their actions as described above, Plaintiff and the citizens of the state of Missouri will suffer irreparable harm in that it will be hindered in its efforts to gather the necessary signatures before the May 6, 2012 deadline.

20. Plaintiff will be irreparably harmed if preliminary relief is not granted in that Plaintiff will be hindered in its efforts to gather the necessary signatures before the May 6, 2012 deadline.

21. There will be no harm to Defendants if preliminary relief is granted.

22. Plaintiff has no adequate remedy at law.

WHEREFORE, based on the foregoing, Plaintiff asks the Court for its Judgment and/or Order as follows:

- A. Enjoining Defendants and those acting under or on behalf of Defendants from assaulting, battering or otherwise hindering the efforts of those seeking to gather signatures;

- B. Ordering that Defendants and those acting under or on behalf of Defendants not approach nearer than fifteen (15) feet from a person seeking to gather signatures;
- C. Ordering that Defendants and those acting under or on behalf of Defendants have no verbal contact or communication by telephone, e-mail transmission, text message or any other type of electronic communication with any person seeking to gather signatures and/or any person then communicating with any person seeking to gather signatures;
- D. For its costs and expenses incurred herein, including reasonable attorney fees; and
- E. For such other relief as the Court deems just.

MISSOURIANS FOR RESPONSIBLE LENDING

By: Matthew Patterson
Matthew Patterson

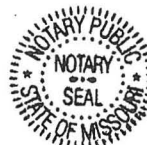
STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this 30th day of April, 2012, before me personally appeared Matthew Patterson, and acknowledged to me that he is a representative of Missourians for Responsible Lending, a Missouri political action committee, and has executed this document as the free act and deed of Missourians for Responsible Lending.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year first above written.


Lori A. Everhart
Notary Public

My Commission Expires: 3.30.14



LORI A. EVERHART
My Commission Expires
March 30, 2014
Greene County
Commission #10435752

HOSMER KING & ROYCE, LLC

By: 
Stuart H. King
Missouri Bar Number 39410

HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, Missouri 65801
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
E-mail: stuart.king@hkrlawoffice.com

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

MISSOURIANS FOR RESPONSIBLE LENDING,)

Plaintiff,)

v.)

STAND UP MISSOURI)

and)

MISSOURIANS FOR EQUAL CREDIT)

OPPORTUNITY)

and)

PROACTIVISM, LLC,)

and)

PROACTIVE SIGNATURE SOLUTIONS,)

and)

OSCAR HOUSER,)

Defendants.)

2012 MAY -1 P 2:33

CIRCUIT CLERK
GREENE COUNTY, MO

Case Number _____

MOTION FOR TEMPORARY RESTRAINING ORDER

COMES NOW plaintiff Missourians for Responsible Lending, by and through its attorneys of record, HOSMER KING & ROYCE, LLC, and moves the Court for its Temporary Restraining Order in the above-captioned action against defendants Stand Up Missouri; Missourians for Equal Credit Opportunity; Proactivism, LLC; ProActive Signature Solutions; and Oscar Houser, and in support of its motion, states to the Court as follows:

1. Plaintiff is a Missouri political action committee located in Greene County, Missouri.
2. Plaintiff is the principal of a initiative petition for signatures to place on the November, 2012 ballot a measure to govern the business of the payday loan industry.
3. Plaintiff has contracted with Midwest Advocacy Group to gather signatures in the State of Missouri, including Greene County, Missouri, on the initiative petition.

4. Plaintiff has until May 6, 2012 to collect and submit to the Missouri Secretary of State a prescribed number of signatures for approvals.

5. Defendants have unlawfully obstructed Plaintiff's efforts to gather signatures for its initiative petition.

6. During the month of April, 2012, and continuing to the time of filing of this Motion, Defendants, by and through their employees and/or agents, have taken the following actions to hinder the plaintiff's effort to gather signatures:

- a. Threatened individuals seeking to gather signatures;
- b. Threatened the children of individuals seeking to gather signatures;
- c. Physically struck individuals seeking to gather signatures and/or struck petitions out of their hands;
- d. Shouted religious slurs or insults at individuals seeking to gather signatures;
- e. "Blocked" individuals seeking to gather signatures or, otherwise stated, physically standing and/or moving between individuals so as to impede the ability to those seeking to gather signatures to approach potential signors and/or so as to impede the ability of persons to approach those seeking to gather signatures;
- f. Approached, followed and surrounded individuals seeking to gather signatures in groups to as to intimidate and stalk;
- g. Upon information and belief, converted sheets of signatures and threw them in the trash;

- h. Upon information and believe, broke into the car of a person seeking to gather signatures and converting sheets of signatures; and
- i. Otherwise unreasonably interfered with the efforts of those seeking to gather signatures.

(See, Exhibits A through E).

7. Plaintiff and those seeking signatures on its behalf have attempted to avoid conflict with the defendants.

8. The above acts of Defendants constitute their assault of those seeking to gather signatures.

9. If Defendants are permitted to continue their actions as described above, Plaintiff will suffer irreparable harm in that it will be hindered in its efforts to gather the necessary signatures before the May 6, 2012 deadline.

10. Plaintiff and the citizens of the state of Missouri will be irreparably harmed if preliminary relief is not granted in that Plaintiff will be hindered in its efforts to gather the necessary signatures before the May 6, 2012 deadline.

11. There will be no harm to Defendants if preliminary relief is granted.

12. Plaintiff has no adequate remedy at law.

13. Plaintiff has been and is being aggrieved by the actions of the defendants.

14. This Court has the authority to grant the relief requested herein pursuant to Missouri Rule of Civil Procedure 92.02.

WHEREFORE, based on the foregoing, Plaintiff asks the Court for its Judgment and/or Order as follows:

- A. Enjoining Defendants and those acting under or on behalf of Defendants from assaulting, battering or otherwise hindering the efforts of those seeking to gather signatures;
- B. Ordering that Defendants and those acting under or on behalf of Defendants not approach nearer than fifteen (15) feet from a person seeking to gather signatures;
- C. Ordering that Defendants and those acting under or on behalf of Defendants have no verbal contact with any person seeking to gather signatures and/or any person then communicating with any person seeking to gather signatures;
- D. Ordering that Defendants and those acting under or on behalf of Defendants initiate no contact with any person seeking to gather signature by telephone, e-mail transmission, text message, or any form of electronic communication;
- E. For its costs and expenses incurred herein, including reasonable attorney fees; and
- F. For such other relief as the Court deems just.

MISSOURIANS FOR RESPONSIBLE LENDING

By: 
Matthew Patterson

SUBSCRIBED AND SWORN TO before me on this 30th day of April, 2012.



Notary Public

My Commission Expires: 3.30.14



LORI A. EVERHART
My Commission Expires
March 30, 2014
Greene County
Commission #10435752

HOSMER KING & ROYCE, LLC

By: 
Stuart H. King
Missouri Bar Number 39410

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following party of interest by United States Mail and in the additional manners set forth below on this 12th day of MAY, 2012:

STAND UP MISSOURI
c/o Robert Dalton
777 Craig Road, Suite 210
St. Louis, Missouri, 65101
and by facsimile transmission to (314) 569-1707

MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY
c/o James C. Thomas, III
4131 N. Mulberry Drive, Suite 200
Kansas City, Missouri 64116
and by facsimile transmission to (816) 584-9394

PROACTIVISM, LLC, and
PROACTIVE SIGNATURE SOLUTIONS and
OSCAR HOUSER
497 East 380th
Dunnegan, Missouri 65640
and by e-mail transmission to proactivism@live.com
and by notice to the FaceBook Page of ProActive Signature Solutions

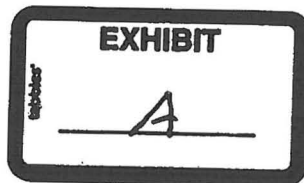

Attorney of Record

HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, Missouri 65801
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
E-mail: stuart.king@hkrlawoffice.com

AFFIDAVIT OF JESSICA PENIGAR

COMES NOW the undersigned, Jessica Penigar, being first duly sworn upon oath, and states as follows:

1. I am over eighteen (18) years of age and in all ways competent to testify to the matters set forth herein.
2. I reside in Greene County, Missouri
3. I have personal knowledge of all matters set forth herein.
4. For the last several weeks, I have been employed by Midwest Advocacy Group in the effort to gather signatures on petitions for a ballot initiative pertaining to the regulation of payday loans to be placed on the November 2012 ballot.
5. The principal of the ballot initiative is Missourians for Responsible Lending.
6. Over the last weeks I have been repeatedly harassed by employees and/or agents of ProActivism, LLC and/or ProActive Signature Solutions. The harassment includes shouts, religious slurs or insults, the physical blocking of access to people, being approached and surrounded by groups of ProActivism, LLC and/or ProActive Signature Solutions employees.
7. In addition to the foregoing, employees of ProActivism, LLC and/or ProActive Signature Solutions approached me and told me I would "be sorry" if cooperated in the signing of this Affidavit, while showing me pictures they had taken of two of my children.
8. Each of the above events took place in Greene County Missouri during the month of April, 2012.
9. Upon information and belief, the above-described harassment and assaults have been and continue to take place to hinder the efforts to submit the necessary signatures to the



Missouri Secretary of State on or before May 6, 2012.

FURTHER AFFIANT SAITH NOT.

Jessica Penigar
Jessica Penigar

SUBSCRIBED AND SWORN TO before me on this 30th day of April, 2012:

Lori A. Everhart
Notary Public

My Commission Expires: 3.30.14



LORI A. EVERHART
My Commission Expires
March 30, 2014
Greene County
Commission #10435752

AFFIDAVIT OF MARLA MARANTZ

COMES NOW the undersigned, Marla Marantz, being first duly sworn upon oath, and states as follows:

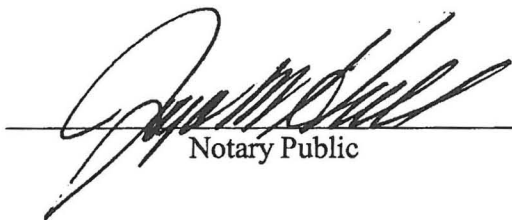
1. I am over eighteen (18) years of age and in all ways competent to testify to the matters set forth herein.
2. I reside in Springfield, Missouri.
3. I have personal knowledge of all matters set forth herein.
4. For the last several weeks, I have been employed by Midwest Advocacy Group in the effort to gather signatures on petitions for a ballot initiative pertaining to the regulation of payday loans to be placed on the November 2012 ballot.
5. The principal of the ballot initiative is Faith and Families of Missouri.
6. Over the last weeks I have been repeatedly harassed by employees and/or agents of ProActivism, LLC and/or ProActive Signature Solutions. The harassment includes shouts, racial slurs or insults, religious slurs or insults, sexual comments, photographing signatures on petitions and/or threats toward persons signing the petition, the physical blocking of access to people, being approached and surrounded by groups of ProActivism, LLC and/or ProActive Signature Solutions employees, and the shoving of petitions out of my hands.
7. Each of the above events took place in Greene County Missouri between approximately March 12, 2012 and the date of this Affidavit.
8. Upon information and belief, the above-described harassment and assaults have been and continue to take place to hinder the efforts to submit the necessary signatures to the Missouri Secretary of State on or before May 6, 2012.



FURTHER AFFIANT SAITH NOT.

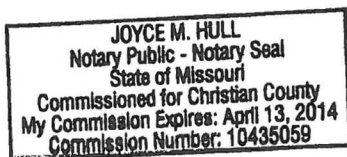

Marla Marantz

SUBSCRIBED AND SWORN TO before me on this 27th day of April, 2012:


Notary Public

My Commission Expires:

4-13-14



AFFIDAVIT OF CANDACE GARRETT

COMES NOW the undersigned, Candace Garrett, being first duly sworn upon oath, and states as follows:

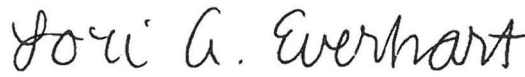
1. I am over eighteen (18) years of age and in all ways competent to testify to the matters set forth herein.
2. I reside in Greene County, Missouri.
3. I have personal knowledge of all matters set forth herein.
4. For the last several weeks, I have been employed by Midwest Advocacy Group in the effort to gather signatures on petitions for a ballot initiative pertaining to the regulation of payday loans to be placed on the November 2012 ballot.
5. The principal of the ballot initiative is Missourians for Responsible Lending.
6. Over the last weeks I have been repeatedly harassed by employees and/or agents of ProActivism, LLC and/or ProActive Signature Solutions. The harassment includes shouts, threats, insults, the physical blocking of access to people, being approached and surrounded by groups of ProActivism, LLC and/or ProActive Signature Solutions employees. Said individuals have physically prevented people from signing petitions, have pushed or slapped petitions from my hands, one shoved into me with his shoulder and also following me in his car.
7. Each of the above events took place in Greene County Missouri during April of 2012.
8. Upon information and belief, the above-described harassment and assaults have been and continue to take place to hinder the efforts to submit the necessary signatures to the Missouri Secretary of State on or before May 6, 2012.



FURTHER AFFIANT SAITH NOT.


Candace Garrett

SUBSCRIBED AND SWORN TO before me on this 30th day of April, 2012:


Notary Public

My Commission Expires: 3.30.14



LORI A. EVERHART
My Commission Expires
March 30, 2014
Greene County
Commission #10435752

AFFIDAVIT OF DANIEL CHRISTAKOS

COMES NOW the undersigned, Daniel Christakos, being first duly sworn upon oath, and states as follows:

1. I am over eighteen (18) years of age and in all ways competent to testify to the matters set forth herein.

2. I reside in the state of Virginia

3. I have personal knowledge of all matters set forth herein.

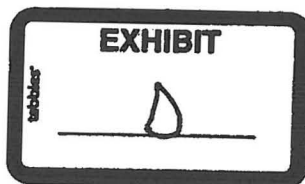
4. For the last several weeks, I have been employed by Midwest Advocacy Group in the effort to gather signatures on petitions for a ballot initiative pertaining to the regulation of payday loans to be placed on the November 2012 ballot.

5. The principal of the ballot initiative is Missourians for Responsible Lending.

6. Over the last weeks I have been harassed by employees and/or agents of ProActivism, LLC and/or ProActive Signature Solutions. The harassment includes shouts, religious slurs or insults and being approached and surrounded by groups of Pro Activism, LLC employees.

7. Each of the above events took place in Greene County Missouri during April of 2012.

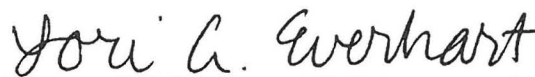
8. Upon information and belief, the above-described harassment-and assaults have been and continue to take place to hinder the efforts to submit the necessary signatures to the Missouri Secretary of State on or before May 6, 2012.



FURTHER AFFIANT SAITH NOT.


Daniel Christakos

SUBSCRIBED AND SWORN TO before me on this 30th day of April, 2012:


Notary Public

My Commission Expires: 3.30.14



LORI A. EVERHART
My Commission Expires
March 30, 2014
Greene County
Commission #10435752



Springfield Police Department

**Incident: LSP120426016894****Incident details:**

Incident Type: Stealing From A Vehicle
Incident time: 04/25/2012 11:30 - 04/25/2012 11:30
Reported time: 04/26/2012 15:55
Incident location: 305 E WALNUT ST, SPRINGFIELD, GREENE MO USA (RD: 348, Beat: PC) 65806
Incident status: Unassigned
Summary: Report of stealing from a vehicle

Involved Persons:

Name: PATTERSON, MATTHEW R **Gender:** Male
Classification: Complainant; Victim **DOB:** 02/27/1977
Address: 225 E COMMERCIAL ST, # UNITD, SPRINGFIELD,
GREENE MO USA (RD: 178, Beat: CS) 65803
Telephone: (Landline) (417) 425-7441

Involved Property:

- Other / Stolen / PETITION

Involved Officers:

- Police Services Representative / BOOMGAARDEN, J. / #1654 / SPD / Non sworn / RECORDS SECOND SHIFT / #985 EHRHARDT, N.

Reports:**General report:**

Author: #1654 BOOMGAARDEN, J. **Report time:** 04/26/2012 18:53
Entered by: #1654 BOOMGAARDEN, J. **Entered time:** 04/26/2012 18:53
Narrative:

On 04/26 at 15:20 Matthew Patterson came in with a report of past stealing from a vehicle. Patterson on 04/25/12 at 11:30 he discovered his vehicle broken into in the parking lot of the Vandervort building. Patterson stated that the front passenger side window had be smashed in and a box of petitions had been stolen from his vehicle. Patterson stated that a petition to raise minimum wage with 5,000 signatures was the only thing stolen from his vehicle.

EXHIBIT**E**

I gave Patterson the report number.

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

MISSOURIANS FOR RESPONSIBLE)
LENDING,)

Plaintiff,)

v.)

STAND UP MISSOURI)
and)
MISSOURIANS FOR EQUAL CREDIT)
OPPORTUNITY)
and)
PROACTIVISM, LLC,)
and)
PROACTIVE SIGNATURE SOLUTIONS,)
and)
OSCAR HOUSER,)

Defendants.)

FILED

2012 MAY -1 P 4: 08

CIRCUIT CLERK
GREENE COUNTY, MO

Case Number 1231-GC-06158

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that Counsel for Plaintiff will call up for hearing and determination Plaintiff's Motion for Temporary Restraining Order on Thursday, May 3, 2012, at 9:00 a.m. or as soon thereafter as counsel may be heard.

HOSMER KING & ROYCE, LLC

By:

Stuart H. King

Missouri Bar Number 39410

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following party of interest by United States Mail and in the additional manners set forth below on this 12th day of MAY, 2012:

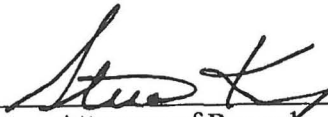
STAND UP MISSOURI
c/o Robert Dalton
777 Craig Road, Suite 210
St. Louis, Missouri, 65101
and by facsimile transmission to (314) 569-1707

B

MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY

c/o James C. Thomas, III
4131 N. Mulberry Drive, Suite 200
Kansas City, Missouri 64116
and by facsimile transmission to (816) 584-9394

PROACTIVISM, LLC, and
PROACTIVE SIGNATURE SOLUTIONS and
OSCAR HOUSER
497 East 380th
Dunnegan, Missouri 65640
and by e-mail transmission to proactivism@live.com
and by notice to the FaceBook Page of ProActive Signature Solutions



Attorney of Record

HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, Missouri 65801
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
E-mail: stuart.king@hkrlawoffice.com

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI**MISSOURIANS FOR RESPONSIBLE
LENDING,****Plaintiff,****v.****STAND UP MISSOURI,
MISSOURIANS FOR EQUAL CREDIT
OPPORTUNITY,
PROACTIVISM, LLC, PROACTIVE
SIGNATURE SOLUTIONS, and
OSCAR HOUSER****Defendants.****Case No. 1231-CV06158****Div. 1****FILED
MAY 03 2012
CIRCUIT CLERK
GREENE COUNTY****DEFENDANT MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY'S
MOTION TO DISMISS PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER, AND COUNTERCLAIMS**

COMES NOW Defendant Missourians for Equal Credit Opportunity ("MECO"), by and through counsel, and moves to dismiss Plaintiff's Motion for Temporary Restraining Order, and asserts counterclaims against Plaintiff as follows:

INTRODUCTION

1. This is a Motion to Dismiss Plaintiff's "Motion" against MECO for failure to observe basic pleading rules and for failure to state a claim for injunctive relief. As the purported Plaintiff of the initiative petition at issue, Plaintiff intervened in a ballot title case in the Circuit Court of Cole County, Missouri. After a full trial, in April 2012, the Honorable Daniel Green, Circuit Judge, entered judgment against Plaintiff and the state defendants therein, declaring the official ballot title to be "insufficient and unfair" and likely to deceive petition signers and voters. In particular, the ballot title deceptively fails to inform voters that the petition

JB

would actually “cap” interest rates on certain loans at 36% APR, essentially eliminating several types of lenders in Missouri. Nonetheless, as Plaintiff’s “Motion” shows, it has apparently been circulating its petition anyway. Now Plaintiff wants to go a step further, silencing its political opponents so that they cannot tell voters about the deceptive title and the Circuit Court’s ruling. Such a prior restraint on core political speech clearly contravenes the First Amendment of the United States Constitution and Article I, Section 8 of the Missouri Constitution. Plaintiff’s attempt to silence speech about its petition borders comes suspiciously late given the length of time Plaintiff claims to have been “hindered.” Coming just a few days before petitions must be turned in to the Secretary of State, it borders on the frivolous and constitutes an abuse of process. Accordingly, Defendant MECO has pled a counterclaim for abuse of process.

I. DISMISSAL ON THE PLEADINGS IS APPROPRIATE

a. Plaintiff MRL Claims to Be Circulating a Petition Using a Ballot Title that Has Already Been Vacated and Judged “Likely to Deceive Petition Signers”

2. As Plaintiff’s Motion for Temporary Restraining Order (“TRO”) indicates, Plaintiff claims to be the proponent of an initiative petition for which it has been gathering signatures. Motion ¶¶ 2-3. (However, it should be noted that at least one affiant, Marla Marantz, swears under oath that a different organization is actually the “principal” of the petition drive).

3. As discussed above, this initiative petition has been the subject of a lawsuit filed in the Circuit Court of Cole County, Missouri. The court recently issued a final judgment finding and holding that the summary statement for the petition is “insufficient, unfair, likely to deceive petition signers and voters and is hereby vacated.” *Prentzler v. Carnahan, et al.*, Case No. 11AC-CC00549, Second Amended Final Judgment (Apr. 17, 2012). The Plaintiff in this case recently intervened in the *Prentzler* lawsuit and is bound by the court’s decision there, which is a public record and judicial act of which this Court can take judicial notice. Following

the court's final judgment, the Defendants in that case and Intervenor Missourians for Responsible Lending ("MRL") filed Notices of Appeal, and their appeal is still pending. MRL filed a motion to stay and/or vacate the court's judgment in Cole County, which was denied on May 1, 2012. MRL has made no effort to post bond or obtain a stay in the Court of Appeals.

4. Notwithstanding the court's order in the Cole County case, the Plaintiff's pleading indicates that it continues to gather petition signatures using the now-vacated summary statement.

b. Plaintiff's "Motion for TRO" Violates Basic Rules of Pleading

4. As an initial matter, despite having waited several weeks to compile its roster of grievances against the Defendants, Plaintiff has filed its "Motion for TRO" against MECO and other Defendants without first filing a Petition setting forth its claim for injunctive relief. *See* RSMo. § 526.040 ("Before any party shall be entitled to the injunction herein provided, he shall have filed in the circuit court, or in the office of the clerk thereof, having jurisdiction of the suit, his petition setting forth his cause of action"); § 526.050 ("When it shall appear by the petition that the plaintiff is entitled to the relief demanded, . . . a temporary injunction may be granted to restrain such act.").

5. More fundamentally, even if it is construed as a bona fide "petition," the Plaintiff's motion does not meet Missouri fact pleading standards. Mo. R. Civ. P. 55.05 ("A pleading that sets forth a claim for relief . . . shall contain (1) a short and plain statement of the facts showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which the pleader claims to be entitled."). Missouri is a fact pleading state, and conclusory statements are insufficient to withstand a motion to dismiss. *Williams v. Barnes & Noble, Inc.*, 174 S.W.3d 556, 559-60 (Mo. App. W.D. 2005) ("Although the petition need not plead

evidentiary or operative facts showing an entitlement to the relief sought, it must plead ultimate facts demonstrating such an entitlement. The plaintiff cannot merely assert conclusions. Courts disregard conclusions not supported by facts in determining whether a petition states a cause of action.”) (citations omitted); *Ingle v. Case*, 777 S.W.2d 301, 305 (Mo. App. S.D. 1989) (“The allegations of negligent failure to select a safe bus stop and establish safe procedures are allegations of conclusions of the safety of the stop and procedures. They are conclusory characterizations of the defendant’s failure to conform to the standard of ordinary care. The first amended petition does not allege one fact to support the conclusion the bus stop was not safe or that unsafe procedures were adopted.”).

6. For example, Plaintiff alleges it has no adequate remedy at law, without any supporting facts. For example, Plaintiff does not explain why any of the sporadic petty offenses four of its employees claim to have endured could not simply have been remedied by law enforcement or by actions for damages against the actual perpetrators, rather than by the blunt instrument of an injunction shutting down the political activities of a swath of defendants who have not been pled to be connected to the offenses. Even construing Plaintiff’s statements liberally and in its favor, Plaintiff still does not explain how any “hindrance” arising from specific individual complaints could not be redressed short of a blanket injunction on Defendants’ future speech and political activity. Without such facts, the Court cannot simply guess at the severity and redressability of individual “hindrances,” and a series of petty offenses cannot be impressionistically strung together to justify a sweeping injunction. Because this deficiency is apparent on the face of the petition itself and goes to an element of a claim for injunctive relief, it requires dismissal. See *Snelling v. City of St. Louis, Dept. of Public Utilities-Water Div.*, 897 S.W.2d 642, 646 (Mo. App. E.D. 1995) (“The petition does not affirmatively

show on its face by the facts pleaded that plaintiff has no adequate and complete remedy at law. Such allegations are jurisdictional and must be pleaded.”); *State ex rel. Janus v. Ferriss*, 344 S.W.2d 656, 659 (Mo. App. 1961) (“The mere allegation in plaintiffs’ petition that they have no adequate remedy at law is a mere conclusion of law, and is not in and of itself a sufficient allegation of inadequacy of a remedy at law.”).

7. In addition, the Plaintiff summarily claims that it will suffer irreparable harm if not granted injunctive relief. *See* Mo. R. Civ. P. 92.02(a)(2) (“A party seeking a temporary restraining order shall support that request with a verified petition or affidavit reciting the specific facts that support the showing required by Rule 92.02(a)(1) [of irreparable harm].”). However, as noted above, the summary statement on the petition being circulated has been vacated by the Cole County Circuit Court and thus any signatures Plaintiff might gather will be void. But even were this not true, Plaintiff stops well short of claiming irreparable harm. Instead, Plaintiff merely claims that Defendants’ activities will “hinder” it in reaching its political goals. Unfortunately for Plaintiff, that will be true of all political speech and activism, especially activities directed at educating voters and informing them of the truth that is hidden by Plaintiff’s deceptive ballot title. But if mere “hindrance” in collecting signatures equaled irreparable harm, there would be little to stop courts from issuing prior restraints against irritating, boisterous, and lively speech or activism that offends the opposing side. Fortunately, the First Amendment and our Missouri Constitution foreclose such a result.

c. There Are No Allegations Directed Specifically at MECO

8. Most importantly, the Plaintiff’s “motion” contains absolutely no allegations directed specifically at this Defendant. The motion itself states only that “Defendants” or “Defendants, by and through their employees and/or agents,” have taken certain actions. But this

is a mere legal conclusion. Plaintiff makes no distinction between any of the five named defendants, and do not even mention by name the Defendant MECO. *See, e.g.*, Motion § 6. Likewise, the four affidavits attached to the motion do not refer to MECO. The only parties mentioned in these affidavits are claimed to be employees or agents of ProActivism, LLC and/or ProActive Signature Solutions. *See, e.g.*, Motion Ex. A ¶ 6. *Strunk v. Hahn*, 797 S.W.2d 536, 539 (Mo. App. S.D. 1990) (plaintiff was not entitled to relief against two defendants named in caption of pleading, where no allegations of pleading were directed against those defendants, and prayer for relief in pleading sought no relief against them). It is doubtful whether this is sufficient to bind even ProActivism or ProActive Strategies, but it is certainly a far cry from the factual pleading needed to somehow hold MECO accountable for the sporadic acts alleged by four of Plaintiff's workers.

d. Most of Plaintiff's Requested Remedy Is Unconstitutional

9. Additionally, even if Plaintiff's motion alleged sufficient facts, most of the relief it seeks is a patent prior restraint on speech—and an impermissibly vague and impossible to apply restraint, at that. This violates the free speech protections guaranteed under the First Amendment of the Constitution of the United States of America and Article I, Section 8 of the Constitution of Missouri. Plaintiff seeks to enjoin the defendants from “hindering the efforts of those seeking to gather signatures;” from “approach[ing] nearer than fifteen (15) feet from a person seeking to gather signatures;” from having any “verbal contact with any person seeking to gather signatures and/or any person then communicating with any person seeking to gather signatures;” and “from having any “contact with any person seeking to gather signature by telephone, email transmission, text message, or any form of electronic communication.” Motion p.4. Can Plaintiff in good faith ask a court in this state to bar its political opponents from

speaking with its circulators and voters “then communicating” with them about issues of public importance? The implications for speech are even more troubling by the vagueness of most of the restraints Plaintiff would impose. A TRO must be “specific in terms” and “shall describe in reasonable detail, and not by reference to the petition or other document, the act or acts sought to be restrained[.]” Mo. R. Civ. P. 92.02(e). The injunction Plaintiff seeks is extremely vague and overbroad and cannot satisfy these standards. *See, e.g., Terre Du Lac Property Owners’ Ass’n v. Wideman*, 655 S.W.2d 803, 807 (Mo. App. E.D. 1983) (“An injunction should be narrowly framed to give the relief to which the parties are entitled but should not interfere with any legitimate or proper activities.”). The vagueness and overbreadth of Plaintiff’s alleged remedy is certain to prohibit or chill a vast quantity of core political speech that is not insulting, shouting, or threatening (although of course, insults and shouts cannot be restrained in advance under our constitution).

10. As the Missouri Supreme Court has recognized, “‘wherever the authority of injunction begins, there the right of free speech, free writing, or free publication ends’; and . . . [i]t is abhorrent to fundamental principles of Liberty and Democracy to have a censorship over the right of free speech and freedom of the press.” *Ryan v. City of Warrensburg*, 117 S.W.2d 303, 308 (Mo. 1938) (citations omitted). The injunction Plaintiff seeks effectively grants it a monopoly in its efforts to gather signatures in support of its initiative petition, by prohibiting its political opponents from even speaking to potential petition signers. Even if the Plaintiff were to establish specific instances of impermissible behavior in the past, this would not justify a blanket injunction on all political activity (especially with respect to defendants, such as MECO, who are not alleged to have engaged in such activity). In the analogous context of labor union picketing, the Missouri Supreme Court has observed: “The United States Supreme Court held that the right

to free speech in the future cannot be forfeited because of disassociated acts of past violence, and still less because of isolated incidents of abuse falling far short of violence.” *Missouri Cafeteria v. McVey*, 242 S.W.2d 549, 552 (Mo. banc 1951) (citing *Cafeteria Employees Union, Local 302, v. Angelos*, 320 U.S. 293, 64 S. Ct. 126 (1943)). Thus, in *McVey* the court held that incidents such as use of the word “scab” “did not transgress peaceful persuasion[.]” *Id.* See also *Snyder v. Phelps*, 131 S. Ct. 1207, 1219 (2011) (“Given that [the] speech was at a public place on a matter of public concern, that speech is entitled to ‘special protection’ under the First Amendment. . . . [I]n public debate [we] must tolerate insulting, and even outrageous, speech in order to provide adequate ‘breathing space’ to the freedoms protected by the First Amendment.”) (citation omitted).

11. Finally, it is striking that Plaintiff claims to have suffered various “hindrances” for all of April, but have waited to seek emergency relief until just before the final crucial weekend of signature gathering. Plaintiff’s unreasonable delay has meant that Defendant has had to prepare to meet its “motion” for TRO with less than 24 hours of preparation and without any opportunity to test the self-serving and nearly identically-worded statements of Plaintiff’s agents’ affidavits. Accordingly, on the face of Plaintiff’s pleading, its request for TRO should be barred by laches.

12. In conclusion, Plaintiffs have failed to file a proper petition, have failed to fact-plead the elements of a claim for injunctive relief, have primarily sought remedies that constitute unconstitutional prior restraints and overbroad and vague restrictions on core political speech, and are barred from equitable relief under the doctrine of laches. Their “motion” should be denied (or stricken) for failure to state a claim upon which relief can be granted.

COUNTERCLAIM

COMES NOW Defendant/Counterclaimant and, for its first cause of action against Plaintiff, states and alleges as follows:

1. Defendant/Counterclaimant, MECO, referred to below as Counterclaimant, is a Missouri ballot measure committee organized pursuant to Chapter 130, RSMo.
2. Plaintiff, upon information and belief, is a Missouri political action committee doing business in Greene County, Missouri. Motion ¶ 1.
4. On May 1, 2012, Plaintiff filed its Motion for TRO, seeking to enjoin all defendants from "hindering the efforts of those seeking to gather signatures;" from "approach[ing] nearer than fifteen (15) feet from a person seeking to gather signatures;" from having any "verbal contact with any person seeking to gather signatures and/or any person then communicating with any person seeking to gather signatures;" and "from having any "contact with any person seeking to gather signature by telephone, email transmission, text message, or any form of electronic communication." Motion p.4. The injunction Plaintiff seeks would enjoin the defendants from engaging in political speech and conduct protected by the First Amendment. It plainly seeks a prior restraint on political speech. Further, it seeks a blanket ban on all political speech by MECO to Plaintiff's circulators or potential petition signers as they are approached by circulators, regardless of whether any of the conduct complained of by Plaintiff is occurring. Plaintiff is or should be aware that there is no legal basis for such relief.
5. Further, Plaintiff named MECO as one of several defendants, despite the fact that the motion contains no factual allegations that MECO in particular engaged in any of the conduct Plaintiff complains of. Moreover, the four affidavits attached to Plaintiff's motion refer to conduct allegedly engaged in by two other defendants, but contain no allegations with respect to

MECO. Given the lack of any allegations directed specifically at MECO, and given the patent unconstitutionality of the relief Plaintiff seeks, it appears that Plaintiff's filing against MECO is aimed solely at quashing legitimate political speech and conduct. Plaintiff thus used this process for an ulterior and improper motive.

7. As a direct and proximate result of Plaintiff's actions, MECO has suffered damages and incurred legal expenses in an amount to be determined at trial.

8. Upon information and belief based upon the facts pled in the above paragraphs, Plaintiff's conduct was done knowingly, willfully, and with malicious intent, and MECO is entitled to punitive damages in an amount to be determined by proof at trial.

WHEREFORE, MECO demands judgment from Plaintiff for damages, punitive damages, costs, and such other and further relief as this Court may deem just and proper.

Respectfully submitted,

GRAVES BARTLE MARCUS & GARRETT, LLC

By: 

Todd P. Graves Mo. Bar # 41319
Edward D. Greim Bar # 54034
1100 Main Street, Suite 2700
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**ATTORNEYS FOR DEFENDANT MISSOURIANS FOR
EQUAL CREDIT OPPORTUNITY**

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of May, 2012, copies of the above and foregoing were served via the following method upon the following:

Stuart King
HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, MO 65801
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
Stuart.king@hkrlawoffice.com
ATTORNEY FOR PLAINTIFF

(By Facsimile and Electronic Mail)

STAND UP MISSOURI
C/o Robert Dalton
777 Craig Road, Suite 210
St. Louis, MO 65101
Facsimile: (314) 569-1707
DEFENDANT

(By Facsimile)

PROACTIVISM, LLC, and
PROACTIVE SIGNATURE
SOLUTIONS and
OSCAR HOUSER
497 East 380th
Dunnegan, Missouri 65640
proactivism@live.com
DEFENDANTS

(By Electronic Mail)


Edward D. Greim

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURIMISSOURIANS FOR RESPONSIBLE
LENDING,

Plaintiff,

v.

STAND UP MISSOURI,
MISSOURIANS FOR EQUAL CREDIT
OPPORTUNITY,
PROACTIVISM, LLC, PROACTIVE
SIGNATURE SOLUTIONS, and
OSCAR HOUSER

Defendants.

Case No. 1231-CV06158

Div. 1

FILED
MAY 03 2012
CIRCUIT CLERK
GREENE COUNTY**DEFENDANT MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY'S
FIRST AMENDED MOTION TO DISMISS PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER, AND COUNTERCLAIMS**

COMES NOW Defendant Missourians for Equal Credit Opportunity ("MECO"), by and through counsel, and files its First Amended motion to dismiss Plaintiff's Motion for Temporary Restraining Order, and asserts a counterclaim in the alternative against Plaintiff as follows:

INTRODUCTION

1. This is a Motion to Dismiss Plaintiff's "Motion" against MECO for failure to observe basic pleading rules and for failure to state a claim for injunctive relief. First, MECO is an unincorporated association, and the Plaintiff's failure to proceed by class action as required under Rule 52.10 is a jurisdictional defect. Second, the allegations do not link to MECO, but Plaintiff seeks relief that would violate MECO's First Amendment rights. As the purported "principal" of the initiative petition at issue, Plaintiff intervened in a ballot title case in the Circuit Court of Cole County, Missouri. After a full trial, in April 2012, the Honorable Daniel

JB

Green, Circuit Judge, entered judgment against Plaintiff and the state defendants therein, declaring the official ballot title to be "insufficient and unfair" and likely to deceive petition signers and voters. In particular, the ballot title deceptively fails to inform voters that the petition would actually "cap" interest rates on certain loans at 36% APR, essentially eliminating several types of lenders in Missouri. Nonetheless, as Plaintiff's "Motion" shows, it has apparently been circulating its petition anyway. Now Plaintiff wants to go a step further, silencing its political opponents so that they cannot tell voters about the deceptive title and the Circuit Court's ruling. Such a prior restraint on core political speech clearly contravenes the First Amendment of the United States Constitution and Article I, Section 8 of the Missouri Constitution. **Third**, Plaintiff's petition is inadequately pled. **Fourth**, Plaintiff's attempt to silence speech about its petition is barred by laches, coming suspiciously late given the length of time Plaintiff claims to have been "hindered." Filed just a few days before petitions must be turned in to the Secretary of State, it borders on the frivolous and constitutes an abuse of process. Accordingly, in the event the Court is not inclined to immediately dismiss this complaint against MECO for want of jurisdiction, Defendant MECO has pled a counterclaim for abuse of process.

I. THIS COURT LACKS JURISDICTION AS TO MECO, WHICH, AS A CAMPAIGN COMMITTEE, CANNOT BE SUED AS A VOLUNTARY UNINCORPORATED ASSOCIATION

2. First, MECO is a campaign committee organized under Chapter 130, RSMo., the campaign finance laws of Missouri, to oppose the ballot measure Plaintiff MRL claims to be supporting. A campaign committee is not a corporation, an incorporated association, or an entity, but

...an individual or group of individuals [who] receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to

the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed.

Section 130.011(3) (definition of "campaign committee").

3. A voluntary association "has no legal entity apart from its members and cannot be sued as a separate entity. The proper way in which to sue and obtain service upon a voluntary unincorporated association is by means of a class action, in which some members are designated to represent all members of the association." *State ex rel. Missouri State High School Activities Ass'n v. Ruddy*, 643 S.W.2d 596 (Mo. banc 1983). "Failure to follow this procedure means there is no defendant having the capacity to be sued before the court and, consequently, totally deprives the circuit court of jurisdiction to proceed." *Id.* See also *State ex rel. Blasé v. Richardson*, 242 S.W.3d 469 (Mo. App. S.D. 2008) (granting writ of prohibition against circuit court after it had issued a TRO against the MSHSAA, a voluntary unincorporated association, where the association itself could not be sued and the representative defendant, an executive director, was not a proper representative party defendant because he was not a member of MSHSAA).

4. As with MSHSAA, MECO cannot itself be sued, and the proper procedure to sue MECO's members is set forth in Rule 52.10. That rule provides:

An action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties may be maintained only if it appears that the representative parties will fairly and adequately protect the interests of the association and its members. In the conduct of the action the court may make appropriate orders corresponding with those described in Rule 52.08(d), and the procedure for dismissal or compromise of the action shall correspond with that provided in Rule 52.08(e).

5. Despite the fact that it allegedly incurred "hindrance" for an entire month, and

two days have now passed since Plaintiff filed its "Motion," Plaintiff has followed none of these procedures. It has simply named MECO as a party, has not filed a petition (let alone a class action), has not named an adequate representative of the class of individuals making up MECO, and has not pled facts indicating why that person is an adequate representative. Without this, MECO cannot sue or be sued. Even before the Court reaches the inadequacy of Plaintiff's pleading on the merits, Plaintiff's threshold failure to follow the jurisdictional requirements of Rule 52.10 requires dismissal of the action as to MECO.

II. DISMISSAL ON THE PLEADINGS IS APPROPRIATE

a. Plaintiff MRL Claims to Be Circulating a Petition Using a Ballot Title that Has Already Been Vacated and Judged "Likely to Deceive Petition Signers"

6. Plaintiff claims to be the proponent of an initiative petition for which it has been gathering signatures. Motion ¶¶ 2-3. (However, it should be noted that at least one affiant, Marla Marantz, swears under oath that a different organization is actually the "principal" of the petition drive).

7. As discussed above, this initiative petition has been the subject of a lawsuit filed in the Circuit Court of Cole County, Missouri. The court recently issued a final judgment finding and holding that the summary statement for the petition is "insufficient, unfair, likely to deceive petition signers and voters and is hereby vacated." *Prentzler v. Carnahan, et al.*, Case No. 11AC-CC00549, Second Amended Final Judgment (Apr. 17, 2012). The Plaintiff in this case recently intervened in the *Prentzler* lawsuit and is bound by the court's decision there, which is a public record and judicial act of which this Court can take judicial notice. Following the court's final judgment, the Defendants in that case and Intervenor Missourians for Responsible Lending ("MRL") filed Notices of Appeal, and their appeal is still pending. MRL

filed a motion to stay and/or vacate the court's judgment in Cole County, which was denied on May 1, 2012. MRL has made no effort to post bond or obtain a stay in the Court of Appeals.

8. Notwithstanding the court's order in the Cole County case, the Plaintiff's pleading indicates that it continues to gather petition signatures using the now-vacated summary statement.

9. Given these superseding events, it is unclear whether Plaintiff has alleged any harm to its signature-gathering effort. The effort is apparently proceeding with a vacated summary statement, and so it is unclear whether the signatures Plaintiff is gathering can have any legal effect. At the very least, as Plaintiff continues to circulate the petition, someone must be on hand to advise potential petition signers that a court of competent jurisdiction has vacated the summary statement and has found it to be deceptive for several reasons.

b. Plaintiff's "Motion for TRO" Violates Basic Rules of Pleading

10. As an initial matter, despite having waited several weeks to compile its roster of grievances against the Defendants, Plaintiff has filed its "Motion for TRO" against MECO and other Defendants without first filing a Petition setting forth its claim for injunctive relief. *See* RSMo. § 526.040 ("Before any party shall be entitled to the injunction herein provided, he shall have filed in the circuit court, or in the office of the clerk thereof, having jurisdiction of the suit, his petition setting forth his cause of action"); § 526.050 ("When it shall appear by the petition that the plaintiff is entitled to the relief demanded, . . . a temporary injunction may be granted to restrain such act.").

11. More fundamentally, even if it is construed as a bona fide "petition," the Plaintiff's motion does not meet Missouri fact pleading standards. Mo. R. Civ. P. 55.05 ("A pleading that sets forth a claim for relief . . . shall contain (1) a short and plain statement of the

facts showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which the pleader claims to be entitled.”). Missouri is a fact pleading state, and conclusory statements are insufficient to withstand a motion to dismiss. *Williams v. Barnes & Noble, Inc.*, 174 S.W.3d 556, 559-60 (Mo. App. W.D. 2005) (“Although the petition need not plead evidentiary or operative facts showing an entitlement to the relief sought, it must plead ultimate facts demonstrating such an entitlement. The plaintiff cannot merely assert conclusions. Courts disregard conclusions not supported by facts in determining whether a petition states a cause of action.”) (citations omitted); *Ingle v. Case*, 777 S.W.2d 301, 305 (Mo. App. S.D. 1989) (“The allegations of negligent failure to select a safe bus stop and establish safe procedures are allegations of conclusions of the safety of the stop and procedures. They are conclusory characterizations of the defendant’s failure to conform to the standard of ordinary care. The first amended petition does not allege one fact to support the conclusion the bus stop was not safe or that unsafe procedures were adopted.”).

12. First, Plaintiff alleges it has no adequate remedy at law, without any supporting facts. For example, Plaintiff does not explain why any of the sporadic petty offenses four of its employees claim to have endured could not simply have been remedied by law enforcement or by actions for damages against the actual perpetrators, rather than by the blunt instrument of an injunction shutting down the political activities of a swath of defendants who have not been pled to be connected to the offenses. Even construing Plaintiff’s statements liberally and in its favor, Plaintiff still does not explain how any “hindrance” arising from specific individual complaints could not be redressed short of a blanket injunction on Defendants’ future speech and political activity. Without such facts, the Court cannot simply guess at the severity and redressability of individual “hindrances,” and a series of petty offenses cannot be impressionistically strung

together to justify a sweeping injunction. Because this deficiency is apparent on the face of the petition itself and goes to an element of a claim for injunctive relief, it requires dismissal. *See Snelling v. City of St. Louis, Dept. of Public Utilities-Water Div.*, 897 S.W.2d 642, 646 (Mo. App. E.D. 1995) ("The petition does not affirmatively show on its face by the facts pleaded that plaintiff has no adequate and complete remedy at law. Such allegations are jurisdictional and must be pleaded."); *State ex rel. Janus v. Ferriss*, 344 S.W.2d 656, 659 (Mo. App. 1961) ("The mere allegation in plaintiffs' petition that they have no adequate remedy at law is a mere conclusion of law, and is not in and of itself a sufficient allegation of inadequacy of a remedy at law.").

13. In addition, the Plaintiff summarily claims that it will suffer irreparable harm if not granted injunctive relief. *See* Mo. R. Civ. P. 92.02(a)(2) ("A party seeking a temporary restraining order shall support that request with a verified petition or affidavit reciting the specific facts that support the showing required by Rule 92.02(a)(1) [of irreparable harm]."). However, as noted above, the summary statement on the petition being circulated has been vacated by the Cole County Circuit Court and thus any signatures Plaintiff might gather will be void. And even were this not true, Plaintiff stops well short of claiming irreparable harm. Instead, Plaintiff merely claims that Defendants' activities will "hinder" it in reaching its political goals. Unfortunately for Plaintiff, that will be true of all political speech and activism, especially activities directed at educating voters and informing them of the truth that is hidden by Plaintiff's deceptive ballot title. But if mere "hindrance" in collecting signatures equaled irreparable harm, there would be little to stop courts from issuing prior restraints against irritating, boisterous, and lively speech or activism that offends the opposing side. Fortunately, the First Amendment and our Missouri Constitution foreclose such a result.

c. There Are No Allegations Directed Specifically at MECO

14. Most importantly, the Plaintiff's "motion" contains absolutely no allegations directed specifically at this Defendant. The motion itself states only that "Defendants" or "Defendants, by and through their employees and/or agents," have taken certain actions. But this is a mere legal conclusion. Plaintiff makes no distinction between any of the five named defendants, and does not even mention by name the Defendant MECO. *See, e.g.*, Motion § 6. Likewise, the four affidavits attached to the motion do not refer to MECO. The only parties mentioned in these affidavits are claimed to be employees or agents of ProActivism, LLC and/or ProActive Signature Solutions. *See, e.g.*, Motion Ex. A ¶ 6. *Strunk v. Hahn*, 797 S.W.2d 536, 539 (Mo. App. S.D. 1990) (plaintiff was not entitled to relief against two defendants named in caption of pleading, where no allegations of pleading were directed against those defendants, and prayer for relief in pleading sought no relief against them). It is doubtful whether this is sufficient to bind even ProActivism or ProActive Strategies, but it is certainly a far cry from the factual pleading needed to somehow hold MECO accountable for the sporadic acts alleged by four people who claim to be Plaintiff's workers.

d. Most of Plaintiff's Requested Remedy Is Unconstitutional

15. Additionally, even if Plaintiff's motion alleged sufficient facts, most of the relief it seeks is a patent prior restraint on speech—and an impermissibly vague and impossible to apply restraint, at that. This violates the free speech protections guaranteed under the First Amendment of the Constitution of the United States of America and Article I, Section 8 of the Constitution of Missouri.

16. Plaintiff seeks to enjoin all defendants, including MECO, from:

(a) "hindering the efforts of those seeking to gather signatures;"

(b) "approach[ing] nearer than fifteen (15) feet from a person seeking to gather signatures;"

(c) having any "verbal contact with any person seeking to gather signatures and/or any person then communicating with any person seeking to gather signatures;" and

(d) having any "contact with any person seeking to gather signature by telephone, email transmission, text message, or any form of electronic communication."

Motion p.4.

17. With respect to point (a), MECO is dedicated to spreading the word about MRL's deceptive petition and was formed under Missouri's campaign finance law to receive contributions and make expenditures for that purpose. This will "hinder" MRL's effort to gather signatures as voters learn the truth about its drive. It is unclear exactly what sort of political speech and activism would be prohibited by an admonition not to "hinder" MRL. Clearly, such an order could not be entered consistent with the First Amendment and due process. A TRO must be "specific in terms" and "shall describe in reasonable detail, and not by reference to the petition or other document, the act or acts sought to be restrained[.]" Mo. R. Civ. P. 92.02(e). The injunction Plaintiff seeks is extremely vague and overbroad and cannot satisfy these standards. *See, e.g., Terre Du Lac Property Owners' Ass'n v. Wideman*, 655 S.W.2d 803, 807 (Mo. App. E.D. 1983) ("An injunction should be narrowly framed to give the relief to which the parties are entitled but should not interfere with any legitimate or proper activities.").

18. With respect to the 15-foot buffer zone under sought under point (b), Plaintiff would bar all petition opponents from even being in listening and talking reach of petition proponents or those citizens who are being solicited for signatures. Federal courts frequently

strike down such “floating” buffer zones because they are not narrowly tailored to address the alleged harm. *See, e.g., Phelps-Roger v. City of Manchester, Missouri*, 738 F.Supp.2d 947, 959 (E.D. Mo. 2010). Even where a proper record of abusive conduct can allow narrowly tailored restrictions on blocking “limited parts of a public sidewalk” around areas of access to abortion clinic doorways, floating buffer zones are still impermissible because they are overbroad:

The floating buffer zones prevent defendants—except for two sidewalk counselors, while they are tolerated by the targeted individual—from communicating a message from a normal conversational distance or handing leaflets to people entering or leaving the clinics who are walking on the public sidewalks. This is a broad prohibition, both because of the type of speech that is restricted and the nature of the location. Leafletting and commenting on matters of public concern are classic forms of speech that lie at the heart of the First Amendment, and speech in public areas is at its most protected on public sidewalks, a prototypical example of a traditional public forum.

Schenck v. Pro-Choice Network Of W. New York, 519 U.S. 357, 377, 117 S. Ct. 855, 867, 137 L. Ed. 2d 1 (1997).

19. Can Plaintiff in good faith ask a court in this state to bar its political opponents from speaking with its circulators and voters “then communicating” with them about issues of public importance?

20. With respect to points (c) and (d), the TRO would bar all communications between individuals who are opposed to the petition, on the one hand, and individuals who are circulating the petition (or talking to them), on the other hand. MRL’s rationale is apparently that such speech has proved offensive to it. But even if all of MRL’s opponents engaged in profanity-laced insults all of the time, the United States Supreme Court has recently reiterated that the First Amendment protects speech on matters of public concern that occur in public places:

Given that Westboro’s speech was at a public place on a matter of public concern, that speech is entitled to “special protection” under the First

Amendment. Such speech cannot be restricted simply because it is upsetting or arouses contempt. "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Snyder v. Phelps, 131 S. Ct. 1207, 1219, 179 L. Ed. 2d 172 (2011) (internal citation omitted).

Indeed, such a prohibition is even more severe than the 15-foot buffer zone Plaintiff seeks under point (b), as it completely bars communications. Further, who is to say when Plaintiff's solicitation of passer-by voters has actually commenced, thus requiring opponents to silence themselves and granting Plaintiff a monopoly on political speech during a fleeting window of opportunity? Political candidates cannot even observe such rules in televised debates.

21. The Missouri Supreme Court, and federal courts reviewing related areas of the law, have also been emphatic in protecting political speech in public places. The Missouri Supreme Court has recognized, "wherever the authority of injunction begins, there the right of free speech, free writing, or free publication ends"; and . . . [i]t is abhorrent to fundamental principles of Liberty and Democracy to have a censorship over the right of free speech and freedom of the press." *Ryan v. City of Warrensburg*, 117 S.W.2d 303, 308 (Mo. 1938) (citations omitted). The injunction Plaintiff seeks effectively grants it a monopoly in its efforts to gather signatures in support of its initiative petition, by prohibiting its political opponents from even speaking to potential petition signers. Even if the Plaintiff were to establish specific instances of impermissible behavior in the past, this would not justify a blanket injunction on all political activity (especially with respect to defendants, such as MECO, who are not alleged to have engaged in such activity). In the analogous context of labor union picketing, the Missouri Supreme Court has observed: "The United States Supreme Court held that the right to free speech in the future cannot be forfeited because of disassociated acts of past violence, and still less because of isolated incidents of abuse falling far short of violence." *Missouri Cafeteria v.*

McVey, 242 S.W.2d 549, 552 (Mo. banc 1951) (citing *Cafeteria Employees Union, Local 302, v. Angelos*, 320 U.S. 293, 64 S. Ct. 126 (1943)). Thus, in *McVey* the court held that incidents such as use of the word “scab” “did not transgress peaceful persuasion[.]” *Id.* See also *Snyder v. Phelps*, 131 S. Ct. 1207, 1219 (2011) (“Given that [the] speech was at a public place on a matter of public concern, that speech is entitled to ‘special protection’ under the First Amendment. . . . [I]n public debate [we] must tolerate insulting, and even outrageous, speech in order to provide adequate ‘breathing space’ to the freedoms protected by the First Amendment.”) (citation omitted).

e. Laches Bars Plaintiff’s Claim

22. Finally, it is striking that Plaintiff claims to have suffered various “hindrances” for all of April, but waited to seek emergency relief until just before the final crucial weekend of signature gathering. Plaintiff’s unreasonable delay has meant that Defendant has had to prepare to meet its “motion” for TRO with less than 24 hours of preparation and without any opportunity to test the self-serving and nearly identically-worded statements of Plaintiff’s agents’ affidavits. Accordingly, on the face of Plaintiff’s pleading, its request for TRO should be barred by laches.

12. In conclusion, Plaintiff has failed to properly name MECO as a party or file a class action, has failed to file a proper petition, has failed to fact-plead the elements of a claim for injunctive relief, has primarily sought remedies that constitute unconstitutional prior restraints and overbroad and vague restrictions on core political speech, and is barred from equitable relief under the doctrine of laches. Plaintiff’s “motion” should be denied (or stricken) for lack of jurisdiction under Rule 52.10 and for failure to state a claim upon which relief can be granted.

COUNTERCLAIM

In the alternative, in the event this Court finds that MECO has been properly named and served as a party,¹ for its first cause of action against Plaintiff, MECO states and alleges as follows:

1. Defendant/Counterclaimant, MECO, referred to below as Counterclaimant, is a Missouri campaign committee organized pursuant to Chapter 130, RSMo.

2. Plaintiff, upon information and belief, is a Missouri not for profit corporation that claims to be a campaign committee doing business in Greene County, Missouri. Motion ¶ 1.

4. On May 1, 2012, Plaintiff filed its Motion for TRO, seeking to enjoin all defendants from "hindering the efforts of those seeking to gather signatures;" from "approach[ing] nearer than fifteen (15) feet from a person seeking to gather signatures;" from having any "verbal contact with any person seeking to gather signatures and/or any person then communicating with any person seeking to gather signatures;" and "from having any "contact with any person seeking to gather signature by telephone, email transmission, text message, or any form of electronic communication." Motion p.4. The injunction Plaintiff seeks would enjoin the defendants from engaging in political speech and conduct protected by the First Amendment. It plainly seeks a prior restraint on political speech. Further, it seeks a blanket ban on all political speech by MECO to Plaintiff's circulators or potential petition signers as they are approached by circulators, regardless of whether any of the conduct complained of by Plaintiff is occurring. Plaintiff is or should be aware that there is no legal basis for such relief.

5. Further, Plaintiff named MECO as one of several defendants, despite the fact that

¹ If the Court agrees that MECO is not properly a party pursuant to Mo. R. Civ. P. 52.10, then MECO should be dismissed from this action and its counterclaim should be dismissed without prejudice. "MECO" could then refile its claim for abuse of process by having an adequate representative, designated and qualified pursuant to Rule 52.10, file the case as trustee for all members of MECO.

the motion contains no factual allegations that MECO in particular engaged in any of the conduct Plaintiff complains of. Moreover, the four affidavits attached to Plaintiff's motion refer to conduct allegedly engaged in by two other defendants, but contain no allegations with respect to MECO. Given the lack of any allegations directed specifically at MECO, and given the patent unconstitutionality of the relief Plaintiff seeks, it appears that Plaintiff's filing against MECO is aimed solely at quashing legitimate political speech and conduct. Plaintiff thus used this process for an ulterior and improper motive.

7. As a direct and proximate result of Plaintiff's actions, MECO has suffered damages and incurred legal expenses in an amount to be determined at trial.

8. Upon information and belief based upon the facts pled in the above paragraphs, Plaintiff's conduct was done knowingly, willfully, and with malicious intent, and MECO is entitled to punitive damages in an amount to be determined by proof at trial.

WHEREFORE, MECO demands judgment from Plaintiff for damages, punitive damages, costs, and such other and further relief as this Court may deem just and proper.

Respectfully submitted,

GRAVES BARTLE MARCUS & GARRETT, LLC

By: 

Todd P. Graves Mo. Bar # 41319
Edward D. Greim Bar # 54034
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
(816) 256-3181 (telephone)
(816) 222-0534 (facsimile)

**ATTORNEYS FOR DEFENDANT MISSOURIANS FOR
EQUAL CREDIT OPPORTUNITY**

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2012, copies of the above and foregoing were served via the following method upon the following:

STUART KING
HOSMER KING & ROYCE, LLC
 313 South Glenstone Avenue
 Post Office Box 1245
 Springfield, MO 65801
 Telephone: (417) 869-9999
 Facsimile: (417) 869-2099
Stuart.king@hkrlawoffice.com

(By Facsimile and Electronic Mail)

ATTORNEY FOR PLAINTIFF

STAND UP MISSOURI
 C/o Robert Dalton
 777 Craig Road, Suite 210
 St. Louis, MO 65101
 Facsimile: (314) 569-1707

(By Facsimile)

DEFENDANT

JOE PASSANISE
 2974 East Battlefield
 Springfield, MO 65804
 Telephone: (417) 882-9300
 Facsimile: (417) 882-9310
joe@entrapped.com

(By Facsimile and Electronic Mail)

ATTORNEY FOR DEFENDANT
OSCAR HOUSER

PROACTIVISM, LLC, and
PROACTIVE SIGNATURE
SOLUTIONS
 497 East 380th
 Dunnegan, Missouri 65640
proactivism@live.com

(By Electronic Mail)

DEFENDANTS



Edward D. Greim



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

COPY

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: STAND UP MISSOURI Alias: ROBERT DALTON TREASURER 777 CRAIG ROAD SUITE 210 SAINT LOUIS, MO 63141	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p style="text-align: center;"><u>5-4-12</u> Date</p> <p style="text-align: center;">Further Information:</p>
---	---

COURT SEAL OF



GREENE COUNTY



Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires:

Date

Notary Public

Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$. _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.




IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

COPY
(Date Stamp)

Summons in Civil Case

The State of Missouri to: MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY Alias: JAMES C THOMAS III TREASURER 4131 N MULBERRY DR SUITE 200 KANSAS CITY, MO 64116	<p>COURT SEAL OF</p>  <p>GREENE COUNTY</p>	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p><u>5-4-12</u> Date</p> <p>Further Information:</p>
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Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ <u>10.00</u>
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.




IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

COPY

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: PROACTIVISM LLC Alias: OSCAR HOUSER 497 EAST 380TH DUNNEGAN, MO 65640	
 COURT SEAL OF CIRCUIT COURT OF MISSOURI GREENE COUNTY	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p style="text-align: center;"><u>5-4-12</u> Date</p> <p style="text-align: center;">Further Information: PA Clerk</p>

Sheriff's or Server's Return	
<p>Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.</p> <p>I certify that I have served the above summons by: (check one)</p> <p><input type="checkbox"/> delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.</p> <p><input type="checkbox"/> leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.</p> <p><input type="checkbox"/> (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).</p> <p><input type="checkbox"/> other _____</p> <p>Served at _____ (address)</p> <p>in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).</p> <p>_____ Printed Name of Sheriff or Server</p> <p>_____ Signature of Sheriff or Server</p> <p>Must be sworn before a notary public if not served by an authorized officer:</p> <p>(Seal) Subscribed and sworn to before me on _____ (date).</p> <p>My commission expires: _____ Date _____ Notary Public</p>	

Sheriff's Fees	
Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$. _____ per mile)
Total	\$ _____
<p>A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.</p>	



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

COPY

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: PROACTIVE SIGNATURE SOLUTIONS

Alias:

OSCAR HOUSER
497 EAST 380TH
DUNNEGAN, MO 65640

COURT SEAL OF



GREENE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-4-12

Date



Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

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- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date _____ Notary Public

Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

COPY

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: OSCAR HOUSER Alias: 497 EAST 380TH DUNNEGAN, MO 65640	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p style="text-align: center;">5-4-12 Date</p> <p style="text-align: center;">Further Information:</p>
---	--

COURT SEAL OF



GREENE COUNTY



Sheriff's or Server's Return

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- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$ _____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

FILED

MISSOURIANS FOR RESPONSIBLE LENDING,)
)

Plaintiff,)
)

v.)

MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY, et al.)
)

Defendants.)

2012 MAY -4 A 8:17

CIRCUIT CLERK
GREENE COUNTY, MO

Case Number 1231-CV06158

DISMISSAL OF DEFENDANT STAND UP MISSOURI WITHOUT PREJUDICE

COMES NOW plaintiff Missourians for Responsible Lending, by and through its attorneys of record, HOSMER KING & ROYCE, LLC, and hereby dismisses its claims against Stand Up Missouri, without prejudice. This dismissal should not be construed as a dismissal of any claim for relief against any other party.

HOSMER KING & ROYCE, LLC

By: 

Stuart H. King

Missouri Bar Number 39410

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following attorneys of record by United States Mail and in the additional manners set forth below on this 3rd day of May, 2012:

Stand Up Missouri
c/o Marc H. Ellinger
Facsimile Number (573) 634-3358

Todd P. Graves
Edward D. Greim
1100 Main Street, Suite 2700
Kansas City, Missouri 64105



Attorney of Record

HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, Missouri 65801
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
E-mail: stuart.king@hkrllawoffice.com



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802 <i>Hosmer King + Royce</i>
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

FILED
MAY 11 2012
J.A. M.A. (Date file Stamp)
CIRCUIT CLERK
GREENE COUNTY

Summons in Civil Case

The State of Missouri to: OSCAR HOUSER

Alias:

497 EAST 380TH
DUNNEGAN, MO 65640

COURT SEAL OF



GREENE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-4-12

Date

HIA
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☒ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.
☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in Polk (County/City of St. Louis), MO, on 05-08-12 (date) at 11:30 A (time).

LEON DUERAKOTTE

Printed Name of Sheriff or Server

Leon Duerakotte

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees

Summons \$ 20.00
 Non Est \$ _____
 Sheriff's Deputy Salary \$ 10.00
 Supplemental Surcharge \$ 15.00 (30 miles @ \$. 50 per mile)
 Mileage \$ 45.00
 Total \$ 90.00

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



pd 45-5/7/12



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802 <i>Hosmer, King</i>
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

FILED
MAY 11 2012
J.A. MAIL
CIRCUIT CLERK
GREENE COUNTY
(Date of Filing)

Summons in Civil Case

The State of Missouri to: PROACTIVE SIGNATURE SOLUTIONS
Alias:

OSCAR HOUSER
497 EAST 380TH
DUNNEGAN, MO 65640

COURT SEAL OF

GREENE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-4-12
Date

RLA
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

OSCAR HOUSER (name) R/A (title).

☐ other _____

Served at _____ (address)

in POCK (County/City of St. Louis), MO, on 05-08-12 (date) at 11:34 AM (time).

LEON DWERLEKUTTE Printed Name of Sheriff or Server

Leon Dwerlekutte Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal) Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date _____ Notary Public _____

Sheriff's Fees	
Summons	\$ <u>20.00</u>
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ <u>10.00</u>
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ <u>30.00</u>

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

ME *Pol 30*
5/7/12



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

Hoerner King + Royce
FILED
J.A. MAY 11 2012
CIRCUIT CLERK
GREENE COUNTY

Summons in Civil Case

The State of Missouri to: PROACTIVISM LLC

Alias:

OSCAR HOUSER
497 EAST 380TH
DUNNEGAN, MO 65640

COURT SEAL OF



GREENE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-4-12

Date

RLA
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☒ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
☒ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with
OSCAR HOUSER a person of the Defendant's/Respondent's family over the age of 15 years.
☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in POCK (County/City of St. Louis), MO, on 05-08-12 (date) at 11:30 A (time).

LION DUEHLKOTTE
Printed Name of Sheriff or Server

Lion Duehlkotte
Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date _____ Notary Public

Sheriff's Fees

Summons	\$ <u>20.00</u>
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ <u>10.00</u>
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ <u>30.00</u>

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

ME Pd 30
5/7/12



FILED
C.W. MAY 14 2012
MAIL
CIRCUIT CLERK GREENE COUNTY

CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
DEPARTMENT OF CIVIL PROCESS
415 E. 12TH STREET, 3RD FLOOR
KANSAS CITY, MISSOURI 64106-2706

TERESA L. YORK
COURT ADMINISTRATOR

VERNA PROCTOR
DIRECTOR OF CIVIL PROCESS
816-881-3926

DATE: MAY 09 2012

TO:

RE: 1231-CV-06158

The attached papers are being returned for the following reason:

- () Payment for service of process in Jackson County, Missouri is due in advance. Please remit money order or cashiers check for \$ _____.
- () Incorrect service fee. The service fee for Jackson County, Missouri is \$36.00 per defendant in each case. Please remit money order or cashiers check for \$ _____.
- ☒ The address given for service is not located in Jackson County, Missouri. *Clay Co MO*
- () The Department of Civil Process does not serve United States District Court papers in Jackson County, Missouri.
- () There is no such address in Jackson County, Missouri.
- () Papers were received too late for service.
- () The Department of Civil Process does not serve papers that have not been filed with the Court in your district and that does not have a Court case number.
- () The Department of Civil Process does not accept personal checks. Please re-submit payment by money order or cashiers check.
- () The Department of Civil Process does not serve documents for non-court agencies unless the document has been filed with a state court.
- () The correct amount of copies were not received; i.e. an original for return of service, and a service copy.
- () _____

Make payable to the Department of Civil Process and return to:

Department of Civil Process
415 E. 12th Street, 3rd Fl.
Kansas City, Mo 64106

NO PERSONAL CHECKS ACCEPTED.

By: *[Signature]*

DEPUTY



Revised: 02/03/12



IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158	FILED MAY 14 2012 MAIL C.W. CIRCUIT CLERK GREENE COUNTY (Date File Stamp)
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802	
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802	
Nature of Suit: CC Other Extraordinary Remedy		

Summons in Civil Case

The State of Missouri to: **MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY**

Alias:

JAMES C THOMAS III TREASURER
4131 N MULBERRY DR SUITE 200
KANSAS CITY, MO 64116

COURT SEAL OF



GREENE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-4-12

Date

RLA
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

_____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ _____

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE 31ST JUDICIAL CIRCUIT COURT, GREENE COUNTY, MISSOURI

Judge or Division: MICHAEL J CORDONNIER	Case Number: 1231-CV06158
Plaintiff/Petitioner: MISSOURIANS FOR RESPONSIBLE LENDING	Plaintiff's/Petitioner's Attorney/Address STUART HELM KING 313 S GLENSTONE SPRINGFIELD, MO 65802
Defendant/Respondent: STAND UP MISSOURI	Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802
Nature of Suit: CC Other Extraordinary Remedy	

(Date/File Stamp)

Summons in Civil Case

The State of Missouri to: STAND UP MISSOURI

Alias:

ROBERT DALTON TREASURER
777 CRAIG ROAD SUITE 210
SAINT LOUIS, MO 63141

COURT SEAL OF



GREENE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-4-12

Date

Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.
☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

Judy (name) Secretary (title)

☐ other

Served at 777 Craig #210 (address)
in St Louis (County/City of St. Louis), MO, on 5/10/12 (date) at 07:52 (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____ Date _____ Notary Public

Sheriff's Fees

Summons \$ _____
Non Est \$ _____
Sheriff's Deputy Salary \$ _____
Supplemental Surcharge \$ 10.00
Mileage \$ _____ (_____ miles @ \$ _____ per mile)
Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



12-SMCC-6130

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

FILED

MISSOURIANS FOR RESPONSIBLE
LENDING,

Plaintiff,

v.

MISSOURIANS FOR EQUAL CREDIT
OPPORTUNITY, et al.

Defendants.

2012 MAY 22 P 4: 21

CIRCUIT CLERK
GREENE COUNTY, MO

Case Number 1231-CV06158

**PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIM
OF MISSOURIANS FOR EQUAL CREDIT OPPORTUNITY**

COMES NOW plaintiff Missourians for Responsible Lending, by and through its attorneys of record, HOSMER KING & ROYCE, LLC, and moves the Court for its Order dismissing, with prejudice, the Counterclaim filed herein by defendant Missourians for Equal Credit Opportunity.

HOSMER KING & ROYCE, LLC

By



Stuart H. King

Missouri Bar No. 39410



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following attorneys of record by United States Mail on this 22nd day of May, 2012:

Edward D. Greim
1100 Main Street, Suite 2700
Kansas City, Missouri 64105

Joe Passanise
2974 East Battlefield
Springfield, Missouri 65804



Attorney of Record

HOSMER KING & ROYCE, LLC
313 South Glenstone Avenue
Post Office Box 1245
Springfield, Missouri 65801
Telephone: (417) 869-9999
Facsimile: (417) 869-2099
E-mail: stuart.king@hkrlawoffice.com